

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JEFFERY A. GILBERT,

Plaintiff,

v.

Case No. 8:21-cv-915-KKM-AEP

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant.

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REPORT AND RECOMMENDATION

This cause comes before the Court upon the Commissioner's Unopposed Motion for Entry of Judgment with Remand (Doc. 28). The Commissioner contends that remand is appropriate for the following reason:

The Commissioner believes remand is appropriate in this case so that an administrative law judge (ALJ) may further evaluate the case and issue a new administrative decision. On remand, the Appeals Council will instruct the ALJ to reevaluate the persuasiveness of the medical opinions and prior administrative findings of record pursuant to 20 C.F.R. §§ 404.1520c, 416.920c, including the opinion of Dr. Nicholas Monsul. If warranted, the ALJ will reassess the RFC and consult a vocational expert to determine the effects of the claimant's limitations on the occupational base. The ALJ will offer the claimant the opportunity for a new hearing, take any necessary action to complete the administrative record, and issue a new decision.

Plaintiff does not object to the relief requested.

When reviewing final agency decisions on Social Security benefits, the exclusive methods by which district courts may remand to the Commissioner of

Social Security are set forth in sentence four and sentence six of 42 U.S.C. § 405(g). *Shalala v. Schaefer*, 509 U.S. 292, 296 (1993). Under sentence four, district courts may “enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g). For the reasons stated in the Commissioner’s motion, it is hereby

RECOMMENDED:

1. The Commissioner’s Unopposed Motion for Entry of Judgment with Remand (Doc. 28) be GRANTED.
2. The Clerk be directed to enter judgment for Plaintiff with instructions that the Commissioner’s decision is REVERSED under sentence four of 42 U.S.C. § 405(g) and the case is REMANDED for further administrative proceedings consistent with the reasons stated in the Commissioner’s motion.
3. The Clerk then be directed to close the case.

IT IS SO REPORTED in Tampa, Florida, this 29th day of March, 2022.



ANTHONY E. PORCELLI
United States Magistrate Judge

NOTICE TO PARTIES

A party has fourteen days from the date they are served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension of the fourteen-day deadline to file written objections. 28 U.S.C. § 636(b)(1)(C). A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. See 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1). **Should the parties wish to expedite the resolution of this matter, they may promptly file a joint notice of no objection.**

cc: Hon. Kathryn Kimball Mizelle
Counsel of Record